

1 C. Brandon Wisoff (State Bar No. 121930)

2 bwiseff@fbm.com

3 Diego Acevedo (State Bar No. 244693)

4 dacevedo@fbm.com

5 Farella Braun + Martel LLP

6 235 Montgomery Street, 17th Floor

7 San Francisco, CA 94104

8 Telephone: (415) 954-4400

9 Facsimile: (415) 954-4480

10 Paul Schlaud (State Bar No. 24013469)

11 pschlaud@reevesbrightwell.com

12 Sinéad O'Carroll (State Bar No. 24013253)

13 socarroll@reevesbrightwell.com

14 Reeves & Brightwell LLP

15 221 West Sixth Street, Suite 1000

16 Austin, TX 78701-3410

17 Telephone: (512) 334-4500

18 Facsimile: (512) 334-4492

19 Attorneys for Defendants DELL INC. and DELL  
20 FINANCIAL SERVICES LLC

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22 UNITED STATES DISTRICT COURT

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24 SOUTHERN DISTRICT OF CALIFORNIA

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26 ROSE MAGYAR, on behalf of herself and  
27 all others similarly situated,

28

Plaintiff,

vs.

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DELL INC. and DELL FINANCIAL  
30 SERVICES LLC,

31

Defendants.

32 Case No. 3:12-cv-01899-H-RBB

33 **DEFENDANT DELL INC.'S AND DELL  
34 FINANCIAL SERVICES LLC'S NOTICE  
35 OF MOTION AND MOTION TO COMPEL  
36 ARBITRATION**

37 Date: January 22, 2013

38 Time: 10:30 a.m.

39 Courtroom: 15A

40 Judge: Marilyn L. Huff

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53 DELL INC. & DELL FINANCIAL SERVICES'  
54 NOTICE OF MOTION & MOTION TO COMPEL  
55 ARBITRATION

1 TO PLAINTIFF AND HER ATTORNEYS OF RECORD:

2 PLEASE TAKE NOTICE that, on January 22, 2013, at 10:30 a.m., or as soon thereafter as  
3 the matter may be heard, in Courtroom 13, before the Honorable Marilyn L. Huff, defendants  
4 Dell Inc. and Dell Financial Services LLC shall and hereby do move the Court, pursuant to the  
5 Federal Arbitration Act, 9 U.S.C. § 3, for an Order dismissing or staying this action and  
6 compelling Plaintiff Rose Magyar (“Ms. Magyar”) to pursue all of her claims in arbitration.<sup>1</sup>

7 This Motion is based upon this Notice of Motion and Motion, the accompanying  
8 Memorandum of Points and Authorities, the Declaration of Stephen J. Snyder, and all of the  
9 pleadings, records, and papers on file herein, as well as such other oral or documentary evidence  
10 as may be presented at or before the time of the hearing of this Motion.

11 Dated: December 17, 2012

12 REEVES & BRIGHTWELL LLP

13 By: /s/ Paul Schlaud

14 Paul Schlaud

15 Sinéad O’Carroll

16 Attorneys for Defendants  
17 DELL INC. and DELL FINANCIAL  
18 SERVICES LLC

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26 <sup>1</sup> Courts in this Circuit treat a motion to stay or dismiss in favor of arbitration as a “non-  
27 enumerated Rule 12(b) motion.” *Inlandboatmens Union of the Pacific v. Dutra Group*, 279 F.3d  
28 1075, 1078 n.2 (9th Cir. 2002) (internal quotation omitted); see also *Previti v. Nat'l Union Fire  
Ins. Co. of Pitt.*, No. EDCV 12-00704 DDP, 2012 WL 3257877, at \*3 n.5 (C.D. Cal. Aug. 7,  
2012).

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

ROSE MAGYAR, on behalf of herself and  
all others similarly situated,

Case No. 3:12-cv-01899-H-RBB

Plaintiff,

VS.

DELL INC., and DELL FINANCIAL  
SERVICES LLC.

## Defendants.

## CERTIFICATE OF SERVICE

DELL INC., and DELL FINANCIAL  
SERVICES LLC.

## Defendants

**I HEREBY CERTIFY** that I am a United States citizen, over the age of 18 years and not a party to this action. On December 17, 2012, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF. I also certify that all counsel of record who are deemed to have consented to electronic service are being served this day with a copy of this document via the Court's CM/ECF system. Any other counsel of record will be served by facsimile transmission and/or first class mail.

Dated: December 17, 2012

/s/Paul Schlaud  
Paul Schlaud